

Remarks:

Reconsideration of the application is requested. Claims 1-7, 9, 14-27 are now in the application. Claims 25-27 have been added.

This response is being filed with a Request for Continued Examination.

New Claims:

Claims 25-27 have been added. Support for the new claims can be found in the published application in paragraph [0034] of the published application.

35 USC § 103(a):

In item 2 of the Office action, the Examiner rejected claims 1-6, 9, 14-18, and 21-24 as being obvious over Malodobry (US 2004/0111107) in view of Auguste et al. (US 6,475,977) and DeBusk et al. (US 2004/0001878) under 35 U.S.C. § 103(a). As will be explained below, the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, a brief review of the invention as claimed is provided. Claim 1 calls for, *inter alia*, a method for removing pigments from a pigmented section of skin, comprising:

- a) puncturing the skin at said pigmented section with a skin-puncturing device provided with at least one needle, thereby liberating the pigments and cellular fluids from cells containing said pigments; and
- b) bandaging said punctured skin with a pad adapted to absorb said pigments and said cellular fluids, said pad containing one or more materials capable of accelerating a process of migration of said pigments toward an outer layer of the skin, wherein said one or more materials is a salt-based granular paste. (Emphasis added by Applicants.)

Applicants and the Examiner agree that Malodobry differs from the present invention at least in that Malodobry does not teach step b of the method according to claim 1. In order to supply this

step, the Examiner cites Auguste et al. and contends that the hydrocolloid dressing of Auguste et al. could be applied to a tattooed area of skin treated by the method of Malodobry to achieve the same effect as the method according to claim 1.

Applicants disagree with the Examiner that Auguste et al. teaches or suggest a bandage that accelerates migration of pigments. The method taught in the instant application teaches a process that encourages an ongoing weeping of a wound that is encouraged by an absorbent pad that includes a hygroscopic salt. In contrast, Auguste et al. teaches an absorbent pad that is used to encourage healing of a wound. Auguste et al. absorbs fluids that are exuded. However, the bandage is not used to accelerate the exudation of fluids.

Accordingly, Auguste et al. does not suggest, "Said pad containing one or more materials capable of accelerating a process of migration of said pigments toward an outer layer of the skin" as is described in claim 1 of the instant application.

The difference between the invention as claimed and Auguste et al. are explained in the attached Declaration under Rule 1.132. The *Curriculum Vitae* and Declaration under Rule 1.132 are prepared and signed by Prof. Lior Rosenberg, M.D. Prof. Rosenberg is a medical doctor with some thirty years of experience in areas of medical practice and research including wound healing that are directly related to the present difference of opinion between Applicants and the Examiner concerning Auguste et al.

In section 5.C.7 of the Declaration, Prof. Rosenberg discusses that the differences between a bandage comprised of a pad to which a hygroscopic paste has been applied (as in claim 1) and a hydrocolloid dressing (as in Auguste et al.) is neither the same nor capable of fulfilling the function required of the bandage applied in step b of claim 1.

Furthermore, Prof. Rosenberg states in Section 5.C.6 and Section 8 of his Declaration that to the best of his knowledge the method of claim 1 is innovative.

Accordingly, none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Therefore, claim 1 is patentable over the art. And, because all of

the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

New Claims 25-27:

New claims 25-27 further define the method according to the invention. To encourage weeping and migration of the fluid, infection is encouraged while the pad is applied. Such a condition encourages weeping and thereby fluid exudation that allows the pigment to be carried by the fluid out of the skin and into the pad.

Such a step is not obvious in light of Auguste et al. An object of August et al is to heal and reduce weeping. *See* Auguste et al., col. 2, ll 3-15.

In addition, the Declaration of Dr. Rosenberg, Section 5.C. explains that the hygroscopic bandage combined with a weeping wound is a particularly unique method for migrating the pigment from the dermis.

Conclusion:

In view of the foregoing, reconsideration and allowance of claims 1-7, 9, 14-27 are solicited. In the event the Examiner should still find any of the claims to be unpatentable, please telephone counsel so that patentable language can be substituted.

Petition for extension is herewith made. The extension fee for response within a period of three months for a small entity pursuant to Section 1.136(a) in the amount of \$555 in accordance with Section 1.17 is enclosed herewith.

A Request for Continued Examination and a related payment of \$405 are attached.

A payment of \$78 is attached to provide for three extra total claims.

If any further extension of time for this paper is required, petition for extension is herewith made.

Appl. No. 10/560,063
Amendment Dated September 16, 2009
Reply to Office Action of March 16, 2009

No additional fees are believed due. However, please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 7640-X05-045).

Respectfully submitted,

/Loren D. Pearson/

Loren Donald Pearson, Reg. No. 42,987
Martin Fleit, Reg. No. 16,900

Customer Number: 27317

FLEIT GIBBONS GUTMAN BONGINI & BIANCO, P.L.
21355 East Dixie Highway
Suite 115
Miami, FL 33180
Tel: 305-830-2600
Fax: 305-830-2605
e-mail: LPearson@FGGBB.com